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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,777	08/18/2003	Joseph Brown	BROWN-001XX	3681

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Bourque & Associates, P.A.  
Suite 301  
835 Hanover Street  
Manchester, NH 03104

EXAMINER

NGUYEN, TUAN N

ART UNIT PAPER NUMBER

3751

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/642,777	<b>Applicant(s)</b> BROWN, JOSEPH	
	<b>Examiner</b> Tuan N. Nguyen	<b>Art Unit</b> 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 23-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 31-34 are objected to because of the following informalities: "A1" in lines 10 and 11 of claim 31 should be within parentheses. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 23-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear as to what structure constitutes the "means" in line 14 of claim 23.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 23-25, 31, 32 and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,793,190 (hereinafter White).

In regard to claims 23-25, White discloses a mount (see Figs. 2 and 3) for securing a sink within an opening in a countertop having at least one side, the mount comprising a body portion (the right portion of base 168) adapted be secured to the sink; and a flexible sink engagement section (about 170A). The flexible sink engagement section including a first section having a first end disposed proximate a first end of the body portion; a second portion disposed proximate a second end of the first section, the second section having a tip (about 170B) adapted engage a substantially vertical face of the opening in the countertop when the sink is disposed within the opening the countertop; and (as best understood) inherently, there is means biasing flexible sink engagement section form an unbiased position wherein the flexible sink engagement section is disposed at a first angle relative to a longitudinal axis of the body portion to an installed, biased position wherein the flexible sink engagement section is biased against the vertical face of the countertop opening and is inherently disposed at a second angle relative to the longitudinal axis of the body portion, wherein the second angle is inherently less than the first angle since it is pressed by the vertical face of the countertop. The body portion further includes a channel engagement section (the left portion of base 168 including the aperture for shaft 178) and the vertical portion to the left thereof) dispose proximate a second end of the body portion. The channel engagement section includes a substantially horizontal portion (the left portion of base 168) secured to the second end of the body portion and a substantially vertical portion (the vertical portion to the left base 168) disposed proximate an end the substantially horizontal portion, wherein the substantially horizontal and vertical portions are sized

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and shaped to engage an outside surface of a channel (30) on the sink. The mount further includes a fastener (174) having a head (176) disposed proximate a first end and a threaded region wherein the head of the fastener is sized and shaped to fit within the channel on the sink.

In regard to claims 31, 32 and 34, the method as claimed would be inherent during normal assembly of the White device.

4. Claims 23, 26, 27, 31, 33 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 3,071,780 (hereinafter Lyon).

Lyon discloses a mount (see Fig. 2) for securing a sink within an opening in a countertop having at least one side, the mount comprising a body portion (22) adapted be secured to the sink; and a flexible sink engagement section (24). The flexible sink engagement section including a first section having a first end disposed proximate a first end of the body portion; and a second portion disposed proximate a second end of the first section, the second section having a tip adapted engage a substantially vertical face of the opening in the countertop when the sink is disposed within the opening the countertop. The mount is secured to the sink by an adhesive layer or by integrally welded to the sink.

In regard to claims 31, 33 and 34, the method as claimed would be inherent during normal assembly of the Lyon device.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over White.

The prior art Fig. 1 of the instant application discloses a mount a body portion, a channel engagement, and a faster as claimed. The prior art Fig. 1 differs from the instant invention in the flexible sink engagement section. However, the flexible sink engagement section as claimed is disclosed by the Gotter reference as discussed above (see Gotter Fig. 6). The Gotter disclose two different flexible sink engagement sections (Figs. 5 and 6) that are an equivalent alternative for securing a sink within an opening in a countertop. Gotter's Fig. 5 teaches the flexible sink engagement section (62, 64) clamping the undersurface of the countertop while Gotter's Fig. 6 teaches the flexible sink engagement section (64', 102, 104) clamping the vertical surface of the opening in the countertop. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the flexible sink engagement section of the prior art Fig. 1 with the flexible sink engagement section as, for example, taught by Gotter, where in so doing would involve mere substitution of one functional equivalent sink mount for another and the selection of any of these known equivalents to mount a sink within an opening in a countertop would perform equally well on the Gotter device.

The White flexible sink engagement section obviously has an angle (A1) and an angle (A2) similar to that of the applicant but is silent as to the specific of the angle A1

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being between about 30 and about 60 degrees in an unbiased condition and the angle A2 being between about 15 and about 30 degrees in an unbiased condition. It would have been obvious to one having ordinary skill in the art at the time the invention was made to obtain a workable angle range as claimed since it has been held that where the general conditions of a claims are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

**Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N. Nguyen whose telephone number is 571-272-4892. The examiner can normally be reached on Monday-Friday (10:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine R. Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Tuan Nguyen  
Primary Examiner  
Art Unit 3751  
1/9/06

TN